

FIRST REGULAR SESSION

SENATE BILL NO. 288

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHAEFER.

Read 1st time February 2, 2009, and ordered printed.

TERRY L. SPIELER, Secretary.

1655S.011

AN ACT

To repeal section 620.1039, RSMo, and to enact in lieu thereof one new section relating to a tax credit for qualified research expenses.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 620.1039, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 620.1039, to read as follows:

620.1039. 1. As used in this section, the term "taxpayer" means an
2 individual, a partnership, or any charitable organization which is exempt from
3 federal income tax and whose Missouri unrelated business taxable income, if any,
4 would be subject to the state income tax imposed under chapter 143, RSMo, or a
5 corporation as described in section 143.441 or 143.471, RSMo, or section 148.370,
6 RSMo, and the term "qualified research expenses" has the same meaning as
7 prescribed in 26 U.S.C. 41.

8 2. For tax years beginning on or after January 1, 2001, the director of the
9 department of economic development [may] **shall** authorize a taxpayer to receive
10 a tax credit against the tax otherwise due pursuant to chapter 143, RSMo, or
11 chapter 148, RSMo, other than the taxes withheld pursuant to sections 143.191
12 to 143.265, RSMo, in an amount up to [six and one-half] **ten** percent of the
13 [excess] **amount** of the taxpayer's qualified research expenses, as certified by the
14 director of the department of economic development, within this state during the
15 taxable year [over the average of the taxpayer's qualified research expenses
16 within this state over the immediately preceding three taxable years; except that,
17 no tax credit shall be allowed on that portion of the taxpayer's qualified research
18 expenses incurred within this state during the taxable year in which the credit
19 is being claimed, to the extent such expenses exceed two hundred percent of the

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

20 taxpayer's average qualified research expenses incurred during the immediately
21 preceding three taxable years], **or in the case of qualified research**
22 **expenses incurred in a distressed community as defined under section**
23 **135.530, RSMo, in an amount equal to twenty-five percent of the amount**
24 **of the qualified research expenses. In order to receive tax credits**
25 **provided under this section, a taxpayer shall:**

26 (1) **Employ no more than two hundred twenty-five employees,**
27 **with at least seventy-five percent of such employees based within the**
28 **state; and**

29 (2) **Be engaged on a for-profit basis in the development of**
30 **medical instruments and devices, medical diagnostics or therapeutics,**
31 **plant science products, pharmaceutical or veterinary products with**
32 **agricultural applications, or other products derived from life or**
33 **biomedical sciences.**

34 3. The director of economic development shall prescribe the manner in
35 which the tax credit may be applied for. The tax credit authorized by this section
36 may be claimed by the taxpayer to offset the tax liability imposed by chapter 143,
37 RSMo, or chapter 148, RSMo, that becomes due in the tax year during which such
38 qualified research expenses were incurred. Where the amount of the credit
39 exceeds the tax liability, the difference between the credit and the tax liability
40 may only be carried forward for the next five succeeding taxable years or until the
41 full credit has been claimed, whichever first occurs. The application for tax
42 credits authorized by the director pursuant to subsection 2 of this section shall
43 be made no later than the end of the taxpayer's tax period immediately following
44 the tax period for which the credits are being claimed.

45 4. Certificates of tax credit issued pursuant to this section may be
46 transferred, sold or assigned by filing a notarized endorsement thereof with the
47 department which names the transferee and the amount of tax credit
48 transferred. The director of economic development may allow a taxpayer to
49 transfer, sell or assign up to forty percent of the amount of the certificates of tax
50 credit issued to and not claimed by such taxpayer pursuant to this section during
51 any tax year commencing on or after January 1, [1996] **2010**, and ending not
52 later than December 31, [1999] **2016**. Such taxpayer shall file, by December 31,
53 [2001] **2018**, an application with the department which names the transferee, the
54 amount of tax credit desired to be transferred, and a certification that the funds
55 received by the applicant as a result of the transfer, sale or assignment of the tax

56 credit shall be expended within three years at the state university for the sole
57 purpose of conducting research activities agreed upon by the department, the
58 taxpayer and the state university. Failure to expend such funds in the manner
59 prescribed pursuant to this section shall cause the applicant to be subject to the
60 provisions of section 620.017.

61 5. No rule or portion of a rule promulgated under the authority of this
62 section shall become effective unless it has been promulgated pursuant to the
63 provisions of chapter 536, RSMo. All rulemaking authority delegated prior to
64 June 27, 1997, is of no force and effect and repealed; however, nothing in this
65 section shall be interpreted to repeal or affect the validity of any rule filed or
66 adopted prior to June 27, 1997, if such rule complied with the provisions of
67 chapter 536, RSMo. The provisions of this section and chapter 536, RSMo, are
68 nonseverable and if any of the powers vested with the general assembly pursuant
69 to chapter 536, RSMo, including the ability to review, to delay the effective date,
70 or to disapprove and annul a rule or portion of a rule, are subsequently held
71 unconstitutional, then the purported grant of rulemaking authority and any rule
72 so proposed and contained in the order of rulemaking shall be invalid and void.

73 6. The aggregate of all tax credits authorized pursuant to this section
74 shall not exceed [nine] **ten** million [seven hundred thousand] dollars in any
75 **calendar year and at least six million dollars of the amount authorized**
76 **by this section and certified by the department shall be for qualified**
77 **research expenses incurred in a distressed community. Authorization**
78 **for all or a part of the six million dollars in annual tax credits shall not**
79 **restrict the eligibility of a taxpayer to receive remaining tax credits for**
80 **other qualified research expenses incurred in a distressed area.**

81 7. [For all tax years beginning on or after January 1, 2005, no tax credits
82 shall be approved, awarded, or issued to any person or entity claiming any tax
83 credit under this section.] **No more than five hundred thousand dollars in**
84 **tax credits shall be issued annually under this section to any taxpayer**
85 **for qualified research expenses, unless such research expenses are**
86 **incurred by a taxpayer in a distress area, in which case no more than**
87 **one million dollars in tax credits may be issued to such taxpayer**
88 **annually.**